

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

MARCH 1998 SESSION

FILED

May 18, 1998

Cecil Crowson, Jr.

Appellate Court Clerk

STATE OF TENNESSEE,

) C.C.A. 03C01-9708-CC-00349

) BLEDSOE COUNTY

)

Appellee,

) Hon. Buddy D. Perry, Judge

)

vs.

) (POST-CONVICTION)

) No. 10540-A

JAMES BRITT,

)

)

Appellant.

)

FOR THE APPELLANT:

FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

CORNELIA A. CLARK
Special Judge

OPINION

_____ On July 28, 1995, the petitioner plead guilty to one count of especially aggravated robbery and one count of second degree murder. He was sentenced as a range one offender on the aggravated robbery charge and received a twenty year sentence. He agreed to plead upward as a range three offender to second degree murder and received a sentence of forty-five years. The sentences were run concurrently.

Petitioner subsequently filed a petition for post conviction relief, alleging ineffective assistance of counsel that prevented him from knowingly and voluntarily entering a guilty plea. He specifically asserted that appointed counsel failed adequately to investigate the facts of the case, failed to prepare a defense, failed sufficiently to explain the details of the plea agreement, and failed to take into account his low intelligence level. Following an evidentiary hearing, the trial court issued a comprehensive memorandum denying the petitioner relief and addressing in detail each allegation raised.

We have carefully reviewed both the transcript of the original guilty plea proceeding and the entire record of the post-conviction proceeding. We find that the evidence does not preponderate against the trial court's comprehensive findings. Accordingly, the judgment below is affirmed in accordance with Rule 20 of the Court of Criminal Appeals of Tennessee.

CORNELIA A. CLARK
SPECIAL JUDGE

CONCUR:

JOHN H. PEAY
JUDGE

PAUL G. SUMMERS
JUDGE

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| STATE OF TENNESSEE, |) | C.C.A. 03C01-9708-CC-00349 |
| |) | BLEDSON COUNTY |
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| Appellee, |) | Hon. Buddy D. Perry, Judge |
| |) | |
| vs. |) | (POST-CONVICTION) |
| |) | No. 10540-A |
| JAMES BRITT, |) | |
| |) | |
| Appellant. |) | |

JUDGMENT

_____ Came the appellant, James Britt, by counsel and also came the attorney general on behalf of the State, and this case was heard on the record on appeal from the Circuit Court of Bledsoe County; and upon consideration thereof, this court is of the opinion that there is no reversible error in the judgment of the trial court.

Our opinion is hereby incorporated in this judgment as if set out verbatim.

It is, therefore, ordered and adjudged by this court that the judgment of the trial court is AFFIRMED, and the case is remanded to the Criminal Court of Bledsoe County for execution of the judgment of that court and for collection of costs accrued below.

Costs of this appeal will be paid by the appellant James Britt for which let execution issue.

PER CURIAM

John H. Peay, Judge
Paul G. Summers, Judge
Cornelia A. Clark, Special Judge